

REMARKS

Claims 1, 2, 5, 6, 12, 13, 22 and 23 are currently pending on the merits and under examination. Claims 1, 2, 5, 6, 12 and 13 have been amended to more clearly recite the claimed invention. Claims 7-11, 14, and 17-21 have been previously withdrawn without prejudice. Claims 3-4 and 15-16 have been previously canceled without disclaimer or prejudice. New claims 22 and 23 are added. Support for the new claims 22 and 23 can be found on paragraphs [0013] and [0016] of the published Application No. 2007/026395. Applicants reserve the right to file one or more continuation or divisional applications to any withdrawn or canceled subject matter. No new matter has been added by this amendment.

I. Objections to claims 12 and 13 should be withdrawn

The office action objected to claims 12 and 13 because of informalities associated with the expressions, “vector of” and “cell lines of” appearing in these claims. The office action suggested replacing the term “of” with “comprising”. *See* Office Action at page 2.

In response, without acquiescing to the merits of the Examiner’s suggestions, Applicants have deleted the term “of” and replaced it with the term “comprising” in claims 12 and 13 to obviate these objections. Accordingly, Applicants respectfully request withdrawal of these objections.

II. Rejections under § 35 U.S.C. § 112, First Paragraph, Should be Withdrawn

The rejection of claims 1, 2, 3, 6, 12 and 13 under 35 U.S.C. § 112, first paragraph, is maintained on pages 3-5 of the office action. Specifically, the office action asserted that while SEQ ID Nos. 1 and 6 were enabling for the cancer related nucleotide, the cancer related polypeptide sequence of SEQ ID No. 4 did not reasonably provide enablement for all of the possible nucleotide sequences encoding SEQ ID No. 4. *See* Office Action at page 3. In light of the amendments to claim 1, Applicants respectfully traverse the rejections.

Applicants have amended claim 1 by deleting the recitation, “Polynucleotide that encodes SEQ ID No: 4 protein sequences in the sequence listings.” appearing in claim 1. As amended, claim 1 does not encompass the polynucleotide that encodes SEQ ID No:4. Thus, the section 112, first paragraph rejection is overcome. Accordingly, Applicants respectfully request withdrawal of this rejection to claim 1 and the dependent claims 2, 3, 6, 12 and 13 that depend

from claim 1.

III. Rejections under § 35 U.S.C. § 101 Should be Withdrawn

The office action rejected claim 13 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. *See* office action at page 6. Specifically, the office action alleged that claim 13, as written, did not sufficiently distinguish over cells as they exist naturally because claim 13 did not particularly point out any non-naturally occurring difference between the claimed cells and the structure of naturally occurring cells. *Id.* Further, the office action suggested amending claim 13 to recite “an isolated” or “purified” cell or similar language to obviate this rejection. *Id.*

In response, without acquiescing to the merits of the Examiner’s suggestions, Applicants have amended claim 13 by adding the recitation “purified” before the recitation “cell lines” thereby obviating the section 101 rejections of claim 13. Accordingly, Applicants respectfully request withdrawal of this rejection.

IV. New Claims 22 and 23

New claims 22 and 23 have been added by this Amendment. These claims are supported in the published Application No. 2007/026395 on paragraphs [0013] through [0016]. New claim 22 recites a human cancer-related isolated polypeptide sequence, comprising the following polypeptide sequence: 1) SEQ ID No: 4 in the sequence listings. Claim 23 depends from claim 22 and further recites the human cancer-related isolated polypeptide sequence according claim 22, wherein the said human cancers are selected from liver cancer, lung cancer, stomach cancer, colon cancer, and breast cancer. Applicants submit that the specification discloses that SEQ ID No. 4, which consists of 317 amino acid residues, is encoded by SEQ ID No. 1. Therefore, the specification provides support for the cancer related polypeptide of SEQ ID No. 4. Accordingly, Applicants submit that these new claims 22 and 23 are in condition for allowance.

V. Conclusion

The foregoing amendments and remarks are being made to place the application in condition for allowance. Applicants respectfully request entry of the amendments, reconsideration and the timely allowance of the pending claims. Should the Examiner find that

an interview would be helpful to further prosecution of this application, the Examiner is invited to telephone the undersigned at their convenience.

If there are any additional fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310.

Dated: **October 6, 2009**
Morgan, Lewis & Bockius LLP
Customer No. **09629**
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
202-739-3000

Respectfully submitted,
Morgan, Lewis & Bockius LLP

/Dean L Fanelli/
Dean L. Fanelli, Ph.D.
Registration No. 48,907